



# Public Health Professionals Gateway

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## Public Health Law News

May 2022



Public Health Law Program  
Center for State, Tribal, Local, and Territorial Support  
Centers for Disease Control and Prevention

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### Announcements

#### Join us at the 2022 Public Health Law Practitioners Convening!

The Public Health Law Practitioners Convening scheduled to be held **August 17–19** in **Chicago**. The theme for this practice-based convening is “Law, Policy & Equity in Public Health Practice: Learn, Lead, and Leverage.” Continuing Legal Education (CLE) will be offered for attendees. Registration is now open. Early bird registration closes on **June 17**. [Learn more](#) .

#### Podcast | Policies and Laws for the Health of All

The CDC Foundation recently released the 26th episode in the podcast series “Contagious Conversations.” Podcast host Claire Stinson and Sarah de Guia, CEO of ChangeLab Solutions, discuss the importance of bettering community engagement to advance public health goals and policy development. [Listen to the recording or read the transcript](#) .

#### Job Opportunity | Bloomberg American Health Initiative

The Bloomberg American Health Initiative is seeking applications for a Policy Officer to support efforts related to state and federal policy priorities, research emerging policy issues, and develop policy agendas. [Learn more and apply](#) .

## Tribal Announcements

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### Resource | Missing or Murdered Indigenous Persons Webpage

The Department of Justice (DOJ) recently launched the [Missing or Murdered Indigenous Persons \(MMIP\) web resource](#) as part of their Tribal Justice and Safety website. The resource details DOJ's efforts to address the disproportionately high rates of violence experienced by Native Americans, and the high rates of indigenous persons reported missing. It also includes education and resources, data and research, and more. [Learn more](#).

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### Journal Articles | MMIP: Legal, Prosecution, Advocacy & Healthcare

As part of a collaboration between the DOJ MMIP Initiative and Operation Lady Justice, the DOJ's March 2022 edition of the *Journal of Federal Law and Practice* focuses on topics related to law, prosecution, advocacy, and healthcare-related issues and MMIP. [Read this edition](#).

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## Legal Tools & Training

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### Race and Ethnicity Data for COVID-19

The Council of State and Territorial Epidemiologists has released a new report providing insight on factors affecting the collection of race and ethnicity data during the pandemic. The report explores potential causes for gaps and potential solutions. [Read the report.](#)  [\[PDF - 2.3 MB\]](#)

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### Registration Open for the NACCHO 360 Conference | Virtual & In-Person Event

Registration is now open for the National Association of County and City Health Officials (NACCHO) 360 Conference. The conference is scheduled to be held virtually and in-person **July 19–21 in Atlanta**. The theme is “Looking to the Future: Reshaping the Public Health System” and will explore innovative and traditional approaches to restructure the public health system. Early-bird registration ends **June 6**. [Register today](#).

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### Registration Open for APHA Policy Action Institute

The American Public Health Association (APHA) will host its Policy Action Institute on **June 14 in Washington, DC, and online**. Participants will hear from elected officials, policy experts, and other speakers about public health topics. Networking opportunities will also be available. [Learn more](#).

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### Registration Open for the Fall 2022 Public Health Law Summit

The Network for Public Health Law is hosting the Fall 2022 Public Health Law Summit on **October 12–14**. The summit is scheduled to be held in person in **Minneapolis**. The theme is “Climate Change and Health Equity.” Featured topics and registration will be available soon. [Read more about the summit](#).

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### Recording | 2022 Public Health Law Summit Keynote Address

The Network for Public Health Law hosted the 2022 Public Health Law Summit late last month. Dr. Letitia Dzirasa, Commissioner of Health, Baltimore City Public Health Department, gave the keynote address on the importance of identifying and addressing inequitable laws and policies that impact public health. [Listen to the keynote address](#).

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## Top Story

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Vermont: [VT governor signs bill for toxic exposure medical monitoring into law](#)

VT Digger (04/21/2022) Emma Cotton

### Story Highlights

Vermont Governor Phil Scott signed into law a medical monitoring bill that will allow people exposed to toxic substances to sue responsible companies for medical testing or procedures needed to monitor diseases from exposure.

Families and communities should “no longer bear the financial burden as victims of toxic pollution,” Jon Groveman (from the Vermont Natural Resources Council) said in the statement. “Signing this bill is an important step towards holding polluters responsible.”

The legislation was introduced after widespread contamination of groundwater by Per- and Polyfluorinated Substances (PFAS), a chemical associated with harmful health impacts, from a now-closed factory in Bennington, Vermont. Many residents in Bennington will have access to medical monitoring through a class-action lawsuit that was settled earlier this year.

Legislators who proposed the legislation argued that residents should not be subject to large, long lawsuits like in Bennington and aimed to create an easier way for them to obtain medical monitoring.

The law will also allow Vermont to sue manufacturers of hazardous materials for the cleanup costs.

[Editor's note: Read [Vermont S.113](#) and learn about the [Agency for Toxic Substances and Disease Registry](#).]

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## Briefly Noted

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**Alabama:** [Alabama schools examine sex education, survey questions about LGBTQ identity after new law](#)

Rebecca Griesbach (05/04/2022) Alabama.com

[Editor's note: Learn about [LGBTQ health](#) and read [Alabama HB322](#) .]

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**California:** [Nine months after adoption, LA's anti-camping law is a patchwork of compliance](#)

LA Times (05/02/2022) Doug Smith, Benjamin Oreskes, David Zahniser, and Ruben Vives

[Editor's note: Learn more about [homelessness as a public health law issue](#) and read [Municipal Code 41.18](#) .]

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**Kentucky:** [New law encourages KY schools to excuse mental health absences](#)

News 40 (04/26/2022) Meghann Stamps

[Editor's note: Learn more about [adolescent mental health](#) and read [Kentucky HB 44](#) .]

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**Michigan:** [Social worker-police pairing to respond to mental health calls a success so far in Ottawa County](#)

Carolyn Muyskens (05/04/2022) Holland Sentinel

[Editor's note: Learn more about [mental health](#) .]

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**Oklahoma:** [Nation's first nonbinary gender marker ban signed into law](#)

ABC 30 (04/28/2022) Kiara Alfonseca

[Editor's note: Learn about [LGBTQ health](#) and read [Oklahoma SB 1100](#) .]

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**West Virginia:** [West Virginia lawyer device, drug case solicitation law upheld](#)

Bloomberg Law (04/27/2022) Mary Anne Pazanowski

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**Tribal:** [Chief Hoskin, Deputy Chief Warner sign revised Public Health Wellness Act to build drug treatment facilities](#)

Indian Country Today (04/19/2022)

[Editor's note: Learn about [tribal health](#) and [drugs and addiction](#) .]

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**National:** [FDA proposes ban on menthol cigarettes and flavored cigars](#)

CNN (04/28/2022) Jen Christensen

[Editor's note: Learn more about [smoking and tobacco use](#) .]

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## Global Public Health Law News

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**Australia:** [In Australia, slot machines are everywhere. So is gambling addiction.](#)

The Washington Post (04/26/2022) Michael Miller

[Editor's note: Learn more about [gambling disorder and other behavioral addictions](#) .]

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## **South Africa:** [Housing crisis propels high death toll in South Africa floods](#)

The New York Times (04/20/2022) John Elgon, Zanele Mji and Lynsey Chutel

[Editor's note: Learn more about [climate effects on health](#) and [healthy housing](#).]

## Court Filings & Opinions

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### **California:**

In 2017, the Water Board began requiring water quality testing in schools as directed by the California Governor. The Water Board relied on the authority over operators of “public water systems” to amend the permits of more than 1,100 operations that serve K-12 schools. The amended permits require all operators to sample and test drinking water for lead when requested by the school. This process included developing a sampling plan, collecting and maintaining records of samples, submitting samples for testing, and providing results and information for corrective actions if the lead levels were above a certain amount. The operators are responsible for the costs associated with this process.

The City of San Diego is one of these operators subject to the new requirement. The City petitioned the Commission on State Mandates (Commission) on the subject of payment for the testing in schools. The Commission found the water districts are responsible, and the requirement is not considered a state-mandated program eligible for reimbursement. Thus, the cost went to the City's Public Utilities Department and was paid from the General Fund.

The City challenged the Commission's decision under article XIII B, section 6, of the California Constitution that “Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government,” the state must reimburse for the costs. The court concluded that the new testing requirements established a new program under the Constitution because prior law did not require lead testing. Additionally, it is a program because it imposes unique requirements and does not apply to the whole state but only to those involved in water service. However, the court found this decision does not entitle the City to reimbursement for compliance, and the case was sent back to the Commission. Specifically, the Commission will evaluate if the City has the authority to levy the fees, charges, or assessments sufficient to cover the costs or if the state must reimburse the City.

### [City of San Diego v. Comm'n on State Mandates](#)

Court of Appeals of California, Third Appellate District, Sacramento

No. C092800

Decided April 29, 2022

Opinion by Acting P. J. Blease

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### **California:**

The California 4<sup>th</sup> District Court of Appeals ruled to cut about \$2 million off a previous judgment against Johnson & Johnson concerning the concealment of the risks for its Ethicon US, LLC (Ethicon), pelvic mesh products because there was insufficient evidence to show sales representatives made misleading oral statements.

The original case was filed in 2016 after investigating the pelvic mesh devices that doctors used to treat many medical issues, including bladder problems. In the trial court case, the People won nearly \$344 million in civil penalties for willfully misleading device instructions and marketing communications that misstated the health risks of the pelvic mesh device. Ethicon filed an appeal to reverse the decisions. The Court of Appeals found the trial court erred in one respect and amended the judgment to reflect the change.

The court reanalyzed Ethicon's oral marketing communications during one-on-one conversations with doctors, at lunch events, and health fairs. The court found that the mere fact that sale representatives were trained in a particular way to potentially mislead reveals little about the content of conversations that may have occurred with outside parties. Nor was there evidence that sale representatives read from a script or marketing materials that were misleading during oral communications. Thus, there is no evidence to show that Ethicon's oral communications with doctors included false or misleading statements that likely deceived doctors. The trial court erred in finding Ethicon's oral marketing communications violated the Uniform Competition Law or False Advertising Law, and penalties were reduced to about \$302 million.

[People v. Johnson & Johnson \[PDF – 384 KB\] ↗](#)

Court of Appeals of California, Fourth Appellate District, Division One

No. D077945

Decided April 11, 2022

Opinion by P. J. McConnell

## COVID-19 Court Filings & Opinions

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### Massachusetts

This appeal requires us to determine whether various losses stemming from the COVID-19 pandemic constitute “direct physical loss of or damage to” properties owned by the plaintiffs and insured by the defendants. The plaintiffs own three restaurants, which, like many brick-and-mortar businesses, suffered severe reductions in revenues during the pandemic and the resulting government restrictions on public gatherings. And like many other businesses, they looked to their property insurers to offset these losses, and had their claims denied. The plaintiffs sued their insurer for breach of contract and their insurance broker for negligently failing to procure policies that would have covered damages resulting from the COVID-19 virus. Holding that the insurance policies in question unambiguously did not cover the plaintiffs’ losses, a Superior Court judge granted the motion to dismiss filed by the defendant Strathmore Insurance Company (Strathmore) and the motion for judgment on the pleadings filed by the defendant Commercial Insurance Agency, Inc. (Commercial).

[Verveine Corp. v. Strathmore Ins. Co. ↗](#)

Massachusetts Supreme Judicial Court

No. SJC-13172

Decided April 21, 2022

Opinion by J. Kafker

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### Florida

Appellant (Defendant below) District Board of Trustees of Miami Dade College (“MDC”) appeals from a non-final order denying its motion to dismiss based on sovereign immunity, a doctrine that prohibits suit in the absence of an express contract.† Because Appellee (Plaintiff below) Fernando Verdini has not alleged breach of an express, written contract to provide on-campus or in-person services sufficient to overcome sovereign immunity, we reverse.

[District Board of Trustees of Miami Dade College v. Fernando Verdini ↗](#)

Florida Third District Court of Appeals Decision

No. 3D21-0470

Decided April 13, 2022

Opinion by J. Lindsey

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### Florida

As travelers have been reminded for more than a year, federal law requires wearing a mask in airports, train stations, and other transportation hubs as well as on airplanes, buses, trains, and most other public conveyances in the United States. Failure to comply may result in civil and criminal penalties, including removal from the conveyance. This masking requirement—commonly known as the Mask Mandate—is a CDC regulation published in the Federal Register on February 3, 2021.

[Health Freedom Defense Fund, Inc. v. Biden ↗](#)

U.S. District Court, Middle District of Florida, Tampa Division

Case No. 8:21-cv-1693-KKM-AEP

Decided April 18, 2022

Opinion by Kathryn Kimball Mizelle

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## Quiz Question: May 2022

**Question:** When is the Public Health Law Practitioners Convening?

## Last Month's Quiz Answer

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**Question:** What is the location of the upcoming [Public Health Law Practitioners Convening](#) ?

**Answer:** Chicago!

## Quote of the Month

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"This sends a really positive message that your lawmakers recognize, your governors recognize, that student mental health is crucial, just as crucial as physical health."

[Editor's note: This quote is from the above article [New law encourages KY schools to excuse mental health absences](#) , News 40, Meghann Stamp (04/26/2022)]

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